

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

GLORIA TORRES,

Plaintiff,

v.

CAROLYN W. COLVIN, ACTING  
COMMISSIONER OF SOCIAL  
SECURITY,

Defendant.

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CIVIL ACTION NO. 4:13-2571

**MEMORANDUM AND ORDER REGARDING FEES**

On August 15, 2014, this Court granted summary judgment for Plaintiff Gloria Torres and remanded the case to the Commissioner. *See* Memorandum and Order [Doc. # 19]; Order of Remand [Doc. # 20]. Plaintiff now has filed an Application for Award of Attorney Fees under the Equal Access to Justice Act [Doc. # 21] (“Motion”), to which Defendant has filed a Response [Doc. # 22].

Plaintiff’s Motion seeks fees pursuant to the Equal Access to Justice Act (“EAJA”), 28 U.S.C. § 2412. A plaintiff is entitled to recover fees under EAJA when the following conditions are satisfied: the motion for fees is timely filed; the plaintiff was the prevailing party; the plaintiff’s net worth did not exceed two million dollars at the time the civil action was filed; and the position of the United States in the case,

at the administrative level and in the civil action, was not substantially justified; and, there are no special circumstances which make an EAJA award unjust. 28 U.S.C. § 2412. *See Nail v. Martinez*, 391 F.3d 678, 682 (5th Cir. 2004); *Gate Guard Servs. L.P. v. Perez*, 14 F. Supp. 3d 825 (S.D. Tex. 2014) (Rainey, J.).

Plaintiff seeks \$12,159.18 in fees for 64.6 hours of work on the case. Plaintiff's counsel has billed at an hourly rate of \$184.87 for 2013 and \$187.75 for 2014.

Defendant does not oppose the award of fees or Plaintiff's counsel's hourly rate. However, Defendant objects to the amount of time billed, arguing that 64.6 hours is excessive. *See Alexander v. City of Jackson, Miss.*, 456 F. App'x 397, 399 (5th Cir. 2011) (when determining attorney's fees award, district court must determine reasonable number of hours expended on litigation) (citing *La. Power & Light Co. v. Kellstrom*, 50 F.3d 319, 324 (5th Cir. 1995); *Watkins v. Fordice*, 7 F.3d 453, 459 (5th Cir. 1993); *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714 (5th Cir. 1974)). In particular, Defendant objects to the approximately 29 hours billed by Plaintiff's counsel for preparation of Plaintiff's Reply brief. Defendant requests that only 12 hours be approved for the reply brief, for a total of 46.8 hours billed for the case.


Although the Reply brief was significant and raised important issues, the Court agrees with Defendant that 29 hours for preparation of the brief is excessive. The Court will reduce the requested fees to award Plaintiff reimbursement for 14 hours

for counsel's preparation of the Reply.

Plaintiff therefore is awarded fees for 2013 at the rate of \$184.87 per hour for 2.8 hours of work performed by counsel, totaling \$517.64 for 2013. Plaintiff further is awarded fees for 2014 at the rate of \$187.75 per hour for 46 hours of work performed by counsel, totaling \$8,636.50 for 2014. Accordingly, the combined total of recoverable fees for 2013 and 2014 is \$9,154.14. Therefore it is hereby

**ORDERED** that Plaintiff's Application for Award of Attorney Fees under the Equal Access to Justice Act [Doc. # 21] is **GRANTED IN PART**. The United States must pay a reasonable attorney's fee of \$9,154.14 to Plaintiff Gloria Torres.

**SIGNED** at Houston, Texas, this 20<sup>th</sup> day of **November, 2014**.

  
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Nancy F. Atlas  
United States District Judge